



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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COMMITTEE AGAINST TORTURE

Twenty-fourth session

SUMMARY RECORD OF THE 421st MEETING

Held at the Palais des Nations, Geneva,
on Monday, 8 May 2000, at 3 p.m.

Chairman: Mr. BURNS

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 19 OF THE CONVENTION (continued)

Third periodic report of Portugal (continued)

Third periodic report of Paraguay (continued)

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Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 19 OF THE CONVENTION (agenda item 7) (continued)

Third periodic report of Portugal (continued) (CAT/C/44/Add.7)

Conclusions and recommendations of the Committee

1. The CHAIRMAN (Country Rapporteur) read out the following text:

"1. The Committee considered the third periodic report of Portugal (CAT/C/44/Add.7) at its 414th, 417th and 421st meetings on 3, 4 and 8 May 2000 (CAT/C/SR.414, 417 and 421), and adopted the following conclusions and recommendations.

A. Introduction

2. The Committee notes with satisfaction that the third periodic report of Portugal, which was received in a timely manner, conforms to the general guidelines for the preparation of periodic reports. It expresses its satisfaction at the full, detailed and frank nature of the report.

3. The Committee received with interest the oral statement of the Portuguese delegation which elaborated upon events that had occurred since the submission of the report. It noted, in particular, the extension of the Convention to the territory of Macau, which has been confirmed by the Peoples' Republic of China.

B. Positive aspects

4. The Committee notes the ongoing initiatives of the State party to ensure that its laws and institutions conform to the requirements of the Convention.

5. The Committee particularly notes the following developments:

- (a) The restructuring of the police agencies which is designed to emphasize the civil features of policing;

- (b) The advice that an Inspectorate of Prisons is about to be set up;

- (c) The creation of a database to streamline information relating to cases of abuse of public power;

- (d) The enactment of regulations governing police use of firearms that reflect the United Nations Basic Principles on the Use of Firearms by Law Enforcement Officials;

(e) The enactment of regulations relating to conditions of detention in police lockups, setting out the minimum standards to be observed;

(f) Acknowledgement by the European Committee for the Prevention of Torture as a result of its 1999 inspection that improvements in prisons have taken place, including the creation of a national drug unit for prisons as well as setting up new prison health units;

(g) The initiation of the practice of prison visits on a monthly basis by magistrates to receive prisoner treatment complaints;

(h) The introduction this year of a new system of police training with a curriculum developed by a board that has members from civil society;

(i) Active measures that have been taken to reduce inter-prisoner violence in Portuguese prisons;

(j) The active dissemination of information relating to the Convention, including publication to the judiciary of the proceedings relating to the second periodic report in an official periodical.

C. Subjects of concern

6. Continuing reports of a number of deaths and ill-treatment arising out of contact by members of the public with police.

7. Continuing reports of inter-prisoner violence in prisons.

D. Recommendations

8. The State party should continue to engage in vigorous measures, both disciplinary and educative, to maintain the momentum moving the police culture in Portugal to one that respects human rights.

9. The State party should particularly ensure that criminal investigation and prosecution of public officers are undertaken where appropriate as a matter of course where the evidence reveals the commission of torture, or cruel or inhuman or degrading treatment and punishment by them.

10. The State party should continue to take such steps as are necessary to curtail inter-prisoner violence."

2. Mr. PEREIRA GOMES thanked the Committee for its conclusions and recommendations, and said that he would submit them to the Portuguese Government, which would take them into account in implementing its policies and submitting its next periodic report.

The meeting was suspended at 3.10 p.m. and resumed at 3.30 p.m.

Third periodic report of Paraguay (CAT/C/49/Add.1)

3. At the invitation of the Chairman, Mr. Canillas, Mr. Ramírez, Ms. Villagra and Ms. Casati (Paraguay) resumed their places at the Committee table.
4. The CHAIRMAN invited the delegation to respond to the questions raised by Committee members.
5. Mr. CANILLAS (Paraguay) said that, although information had already been provided with regard to new legal codes, the new penal legislation relating to torture was not described in the report (CAT/C/49/Add.1). Paraguay was grateful for the work done by both the Rapporteur and the Alternate Rapporteur in studying the Penal Code and Code of Criminal Procedure. The examination of the country's report would enable it to improve the human rights situation. The delegation would try to respond to all the concerns expressed by the Committee and to explain the implications of the changes made to the judicial system as of 1 March 2000, when the Code of Criminal Procedure had come into force.
6. New legislation had been introduced gradually, for example the Penal Code had been implemented through Law No. 1160/97 and the Code of Criminal Procedure had been partially brought into force in July 1999, together with the law on the transition to the system of criminal procedure. Finally, the full entry into force of the Code of Criminal Procedure on 1 March 2000 had enabled even greater progress to be made.
7. The transitional law referred to established a period of three years during which all pending cases instituted in accordance with the Code of Criminal Procedure of 1890 would be concluded.
8. The Public Prosecutor's Office was responsible for investigating punishable acts and promoting activities to combat crime at a public level. It was also responsible for the functional direction and supervision of the staff and administrative sections of the national police force in relation to investigations into punishable acts. The maximum duration of trials was three years and for pre-trial detention two years.
9. Since the new legislation had come into force, criminal judges had been renamed penal judges and had different duties. The various competent jurisdictional bodies were the Supreme Court of Justice, appeal courts, sentencing courts, penal judges, executing judges and peace judges. Sentencing courts could have from one to three members. Judges working alone were competent to deal with sentences of up to two years, compensation for damage and appeals against sentences handed down by peace judges. Courts with three judges were competent to deal with all other punishable acts. Executing judges were responsible for monitoring the execution of sentences passed.
10. As part of the reorganization of institutions, a joint commission had been set up comprising the Supreme Court of Justice, the Public Prosecutor's Office, the Department of Public Defence, the National Police and the Directorate-General of Penal Institutions. The joint

commission helped to bring cases instituted under the former Code into line with the new penal system and to consolidate that system. Similarly, a transitional structure had been put in place for the settlement of such cases.

11. Differing numbers of judges operated throughout the country, including settlement judges who, under the responsibility of the Supreme Court of Justice, were entrusted with the task of implementing a programme for settling cases brought under the former Code of Criminal Procedure of 1890. With the introduction of the new Code, eight convictions had been secured in a period of less than two weeks through the abbreviated penal procedure. Thirty-eight per cent of the people concerned in such cases had no restrictions imposed on their freedom, while 25 per cent of them were detained on remand.

12. Ms. VILLAGRA (Paraguay), referring to Mr. González Poblete's question about the Office of Public Defence Counsel, said that the entity created in 1999 was the General Defence Counsel Office and was attached to the Supreme Court of Justice. The lawyers working in the Office had the title of Public Defence Counsel, which replaced the old one of defence lawyers for poor suspects. The General Defence Counsel had two deputies, one dealing with civil cases and the other with criminal cases, two coordinators in the national capital and eight in the regions, covering the 140 legal districts, whose number was increasing in line with population expansion.

13. With regard to the concern expressed concerning the availability of legal assistance for victims of torture, Public Defence Counsel examined the cases of people prosecuted for various offences and passed on the complaints made to the Public Prosecutor. In accordance with article 15 of the Code of Criminal Procedure, all punishable acts could be prosecuted *ex officio* by the Public Prosecutor's Office. All cases of torture were therefore dealt with by criminal prosecutors, irrespective of whether the victims were on trial.

14. Although executing judges had not yet been appointed, according to the Law on the transition to the system of criminal procedure the duties of those judges were carried out by judges handing down sentences or by an appointed member of the sentencing court.

15. With regard to judges, appointments were made by the President of the Criminal Chamber of the Supreme Court of Justice in the capital and by the District President in the regions. Executing judges would in fact be appointed during the current year by competitive examination.

16. In response to the question raised regarding the deficiencies in the compensation provided by Law No. 838/96, she said that the law established a scale of compensation for victims of torture committed during the dictatorship, based on the length of time spent in arbitrary detention and the physical and psychological harm inflicted on the victims. Although the law represented a step forward, its scope was admittedly limited to victims of torture during the dictatorship (1954-1989) and did not cover all forms of torture. For all acts of torture committed after that date, other criminal laws recognized the right of the victims to take legal action in ordinary courts with a view to requesting compensation for their injuries and punishment for those responsible. The Code of Criminal Procedure did not, however, say

anything specific with regard to compensation for torture. The system did not provide legal assistance for victims, but proceedings for civil damages could be instituted where convictions had been made.

17. With regard to responsibility for compensation, in the first instance individual victims must take legal action against those who had inflicted the suffering, although the State's secondary responsibility was recognized in that it had to account for any illegal acts committed by public officials. The State accordingly compensated individuals for harm caused to them but then had the duty to recover any payments it made from those personally responsible for acts of torture. In practice, victims of torture had recourse to the Public Prosecutor's Office which took immediate action. Acts of torture were also reported to the Human Rights Commission of the Chamber of Deputies, which employed a legal team responsible for reporting allegations to the Public Prosecutor's Office.

18. An Ombudsman would shortly be appointed from a list of three candidates. Only one of them, Heriberto Alegre, was backed by national human rights organizations. The delay in appointing the Ombudsman was due to the difficulty in obtaining the necessary two-thirds majority in the Chamber of Deputies, where preferences tended to be governed by party considerations. The term of office of the Ombudsman and Deputy Ombudsman was to be five years, coinciding with the term of office of the national Parliament. As the current parliamentary term would end in 2003, the Ombudsman's initial appointment would also end in that year, after which the incumbent would be re-elected or replaced but would continue in office until the new election was held. Similar cases could be cited of members of the judiciary who continued to carry out their duties by tacit extension until their successors were appointed. The law provided that the Ombudsman could be removed from office only by impeachment proceedings.

19. Citing penal statistics she said that the percentage of accused persons sentenced to prison terms had risen since the submission of the initial report and currently stood at 10 per cent. The data related to the various penal establishments, which numbered 13 in all since the recent transfer of the Regional Penitentiary Establishment of San Pedro to the responsibility of the Ministry of Justice. As the budgetary situation improved, the Directorate-General of Penal Institutions attached to the Ministry, would also take charge of other penal centres currently the responsibility of the National Police.

20. With the coming into power of the new Government in March 1999, a Commission for the Reform of the Penitentiary System had been established and was completely remodelling the system on true rehabilitation principles. As one of the major problems was overcrowding and inactivity, additional penitentiary facilities would be required if the judicial reforms were to be implemented successfully. Several new centres were being built and two would be completed by the end of the year 2000, although shortage of budgetary resources for construction due to the national economic recession was retarding the implementation of the reforms.

21. One of the first results of the reforms introduced was the transfer of young offenders from the Panchito López Correctional Centre to a new Comprehensive Educational Centre under the Directorate of Protection for Minors. A penitentiary school to be established at that Centre in June of the current year would train prison officers in the subject of human rights legislation.

22. The serving of minimum sentences continued to be the method used to ensure that people could leave prison as soon as possible, owing to the slowness of the old penal procedure, though it was by no means an established institution. It was hoped that the situation would be improved as a result of the changes made to the judicial system.

23. Although the new Code of Criminal Procedure established a time limit for the duration of trials, it did not apply to torture and other crimes against humanity, since under the Constitution and the international human rights instruments ratified by the country, which had precedence over national legislation, they were imprescriptible. The Supreme Court of Justice had established consistent and uniform case law in more than 30 cases concerning the imprescriptible nature of torture.

24. The drafters of the new Penal Code had themselves acknowledged the inconsistency of their definition of torture with that contained in the Convention against Torture. The Government intended to submit an amended text to Congress in due course.

25. There was no inconsistency between articles 90 and 297 of the Code of Criminal Procedure. Article 90 prohibited the police from taking statements from accused persons and article 297 allowed police officers to question suspects solely to obtain information for identification purposes in order to take emergency action where necessary. Article 85 stipulated that the Public Prosecutor must be notified immediately of the arrest of a suspect and that the latter should have the opportunity to make a statement before the prosecutor within 24 hours of his or her arrest.

26. The police were not authorized to decide that sufficient evidence was available to prefer charges. Article 302 of the Code of Criminal Procedure assigned that responsibility to the Public Prosecutor, who reported to the judge in charge of the case.

27. Article 15 of the Code of Criminal Procedure stipulated that complaints could be filed with any Public Prosecutor. Prosecutors also recorded complaints in the course of their investigations or visits to places of detention. Any information regarding acts of torture was referred to the criminal magistrate so that an investigation could be instituted.

28. Notwithstanding the provisions of article 298 of the Code of Criminal Procedure prohibiting torture and ill-treatment by police officers when apprehending or detaining a suspect, the Director-General of the Office of Public Defence Counsel had drawn attention to the persistence of unreported cases of abuse. The immediate intervention of the Office of the Public Prosecutor under the new legislation would ensure that such cases were reduced to a minimum.

29. Complaints were also filed with the Human Rights Committee of the Chamber of Deputies, which referred them to the Office of the Public Prosecutor. Although there were no specific safeguards for complainants, the wide publicity given to such reports in the media afforded protection against harassment. Alleged victims could also count on the support and solidarity of non-governmental organizations (NGOs).

30. The recent establishment of a Human Rights and Humanitarian Affairs Department at the Ministry of Defence to address cases of human rights violations in the armed forces and the

improved performance of the Human Rights Department at the Ministry of the Interior, which dealt with all cases involving the police, augured well for future action on complaints of torture, although both Departments as well as the corresponding body in the Ministry of Justice and Labour needed effective technical support.

31. In two recent cases of torture by guards at the Panchito López Correctional Centre, the prison director had filed complaints with public defence lawyers and an NGO. Administrative proceedings had been initiated against the guards, who had been transferred and deprived of their salaries. Criminal proceedings had also been instituted. However, it was not always possible to remove offending public officials from their posts since they enjoyed considerable impunity under the existing legislation until such time as the case had been decided.

32. There was little incentive to expedite proceedings based on complaints to the Office of the Public Prosecutor. Outside lawyers often had to intervene to secure effective legal action on complaints of torture.

33. A declaration of acceptance of the competence of the Committee against Torture under articles 21 and 22 of the Convention was currently before the Senate, which was responsible for initiating the process of ratification of international instruments.

34. Mr. EDGAR RAMÍREZ (Paraguay) said that the judiciary and the Office of the Public Prosecutor had introduced an intensive training programme for judges and police officers under the new criminal justice system. The courses were compulsory for judges. Non-attendance was viewed as neglect of professional duty and was liable to prosecution.

35. Courses and seminars in human rights and relevant international instruments had been held throughout the country by the Judicial Studies Research Centre, a Supreme Court body. Eighty per cent of judges had taken part in a workshop-based training plan. The Supreme Court and the Human Rights Directorate at the Ministry of Justice and Labour had also organized seminars in conjunction with NGOs for judges and civil servants respectively. The United Nations Office in Paraguay had held seminars for the National Police. However, a great deal more training was necessary for police and military officers and prison wardens, a project for which the technical assistance of the Office of the High Commissioner for Human Rights was urgently required. A National Human Rights Plan would be launched in late May 2000 in the presence of the Secretary-General of the Organization of American States. It would include training courses focusing on the State's obligations under international treaties.

36. Article 75 of the Code of Criminal Procedure contained wide-ranging safeguards for accused persons, who were entitled to be informed immediately of such rights as: non-use of methods inconsistent with their dignity; to be informed of the grounds for their arrest and the official who issued the order, and to be shown the arrest warrant; not to be subjected to techniques or methods designed to limit or impair their free will or to have their physical freedom of movement restricted during legal proceedings, without prejudice to such measures as might be ordered in special cases by the judge or the Office of the Public Prosecutor.

37. As previously noted, article 90 of the Code of Criminal Procedure prohibited the police from taking statements from suspects that could be used in legal proceedings. The participation

of the Public Prosecutor was compulsory whenever a suspect was questioned, even in police stations, a requirement that was vigorously opposed by the police, who claimed that they were unable to offer the public at large effective protection since the introduction of the new system.

38. As soon as a complaint of torture was received by a Public Prosecutor, the Office of the Public Prosecutor was immediately required, pursuant to article 14 of the Code of Criminal Procedure, to open a criminal investigation. However, as the Office still tended to drag its feet, nobody had yet been convicted of torture in recent cases. In cases relating to the period of dictatorship filed after 1989, the initial characterization of the object of the proceedings – abuse of authority, etc. – had been replaced by the new definition of torture and the higher courts had subsequently convicted a number of police torturers, imposing sentences of up to 25 years' imprisonment. They were the only such convictions recorded in respect of the period of dictatorship in the "southern cone" countries (Argentina, Chile, Paraguay, Uruguay). Other individuals convicted of torture in the lower courts of Paraguay included a former chief of police, who had been sentenced to 30 years' imprisonment.

39. Articles 88 and 174 of the Code of Criminal Procedure reinforced the provision of article 17 of the Constitution to the effect that evidence obtained or information extracted in violation of legal norms was inadmissible in legal proceedings. Any conviction based on such evidence was declared null and void. The courts applied those principles consistently, rejecting police reports tainted by any complaint of lack of safeguards.

40. During the period of transition to democracy that had begun in 1989, the Office of the Public Prosecutor and the judiciary had taken every legal path available to secure the extradition of the leaders of the dictatorship. Brazil had rejected Paraguay's application for the extradition of former President Alfredo Stroessner on the grounds that he had been given political asylum and Honduras refused to extradite the former Minister of the Interior, Sabino Augusto Montanaro.

41. The presence of public defence counsel was required from the time that an accused person made a statement. In practice, counsel was usually called in when persons held in detention centres affirmed that they were unable to pay for private counsel. As some 90 per cent of accused persons fell into that category, the supply of public defence lawyers fell short of the demand and the system needed substantial reinforcement.

42. Article 262 of the Constitution established the Judicial Service Commission, which was responsible for selecting future judges on the basis of merit and aptitude. It comprised a member of the Supreme Court of Justice, a representative of the Executive, a senator and a member of the lower house, two registered lawyers, and two professors from the law faculties of the National University and a private university with at least 20 years' service. The Commission drew up the shortlist of judges for appointments to the Supreme Court of Justice.

43. Under the Constitution, 3 per cent of the national budget was set aside for the judiciary, a provision that ensured its financial independence. Article 252 of the Constitution stipulated that judges were irremovable in terms of their office, duty station and grade for the duration of their appointment, with effect from their second election to the office of magistrate.

44. Judges of the Supreme Court were proposed by the Judicial Service Commission and appointed by the Senate with the consent of the Executive. They were irremovable until the age of 75 years except through impeachment proceedings.
45. Judges charged with professional misconduct were tried by a special court composed of two Supreme Court judges, two members of the Judicial Service Commission, two senators and two members of the lower house who must be qualified lawyers.
46. Unfortunately, there was no body specifically responsible for the rehabilitation of torture victims. However, the Department for Assistance to Crime Victims at the Office of the Public Prosecutor employed two psychologists and two psychiatrists who performed similar services.
47. The Judicial Standards Act provided for compensation for judicial error. The Supreme Court of Justice earmarked 5 per cent of its income for the purpose.
48. Under the new system, the proportion of convicted persons had risen to over 10 per cent, 38 per cent of persons undergoing prosecution were at liberty and 25 per cent were detained on remand. A constitutional safeguards board had been set up within the judiciary in 1999 to improve the organization of habeas corpus and similar procedures. Among the applications it received and regularly granted, 21 per cent concerned amparo (enforcement of constitutional rights), 50 per cent writs of habeas data and 29 per cent writs of habeas corpus.
49. There continued to be sporadic outbreaks of violence in prisons but preventive action was being taken by the authorities. To prevent violence among inmates, regular searches were conducted for sharp objects that could be used as weapons. When wardens were accused of torture or ill-treatment, administrative proceedings were instituted against them and they were immediately dismissed.
50. The National Human Rights Plan to be launched during the current year provided for the establishment of a Truth and Justice Commission to conduct investigations and submit an official report on victims of the dictatorship.
51. Ms. CASATI (Paraguay) listed a number of individual cases in which allegations of torture and ill-treatment by police officers had been investigated by the Human Rights Department at the Office of the Public Prosecutor over the past two years.
52. Regarding the situation of female prisoners, no acts of sexual abuse had been recorded either at the Buen Pastor Correctional Centre in Asunción or at the Maria Lara prison in Ciudad del Este. During the reporting period, 115 adult females had been brought to trial, resulting in 19 convictions; 26 female minors had been brought to trial and 1 convicted. Only women guards came into direct contact with female inmates. Armed men did work at women's prisons, but only on the perimeter walls outside the main prison building. The Inter-American Commission on Human Rights had stated in its preliminary report that conditions at Buen Pastor were good.

53. With regard to Ms. Gaer's request for clarification of paragraph 20 of the report, the old Penal Code had reflected the discrimination against women that prevailed in society. Although much improved, the new Penal Code still characterized abortion as a crime, and was discriminatory in citing the dignity of women as a reason for changing length of sentence, and in the manner in which it dealt with certain crimes, such as sexual violence, that affected mainly women. That was why paragraph 20 stated that the new Code of Criminal Procedure was as discriminatory as the old Penal Code, inasmuch as it was used to measure the rationality or gravity of criminal activity. By contrast, the procedures introduced under the new Code of Criminal Procedure had markedly improved the situation of accused persons.

54. Mr. CANILLAS (Paraguay) responded to Mr. Rasmussen's questions on young people in conflict with the law, with particular reference to the Panchito López Correctional Centre. With regard to the fires on 11 and 18 February, the administrative authorities had initiated proceedings and the judicial authorities had begun an investigation. Some of the inmates had been transferred temporarily to Emboscada prison, where they were separated from the adult prisoners. It had proved very difficult to find a site for a new facility, the populations of Luque and Itá having rejected the idea despite the suitability of the conditions there. In the short term, the plan was to close down the Panchito López facility completely and move all the remaining young inmates to a new comprehensive Educational Centre at Itauguá. Sixty youngsters had been moved there since 13 March, and the others would follow as new buildings were completed. Only 35 still remained at the old facility, the others having been released. After the fires, arrangements had been made to expedite the trials of the Panchito López inmates so that the facility could be closed down. A detailed progress report on the Itauguá centre was available.

55. Mr. RAMÍREZ (Paraguay), replying to a question put by Mr. Yu Mengjia, said that the compelling problems relating to inequitable land distribution among the rural population had led to serious conflict, including incursions on to private property resulting in legal action to eject the squatters. The police were exploring all means of avoiding violent confrontation, including mediation by members of Parliament and representatives of the Ministries of Justice, Labour and the Interior, the Human Rights Department of the Public Prosecutor's Office, and the Church. Although some members of the rural population had served short prison terms for violating property rights recognized and the Constitution, they had rarely been subjected to torture and maltreatment, since the press, rural organizations and political parties monitored each case carefully.

56. Mr. GONZÁLEZ POBLETE (Country Rapporteur) thanked the delegation for the thoroughness of their replies and the completeness of the latest report, which was far more satisfactory than the initial report. As a result, most of his questions had been answered. However, he was still not satisfied concerning the contradiction between article 12 of the Constitution and article 239 (3) of the Code of Criminal Procedure, with respect to arrest in flagrante delicto. The provisions of the latter seemed to go beyond those contained in the Constitution.

57. Ms. VILLAGRA (Paraguay) said that according to article 137 of the Constitution, its provisions prevailed over all other laws. Thus although, owing to errors made in revising the Code of Criminal Procedure, article 239 (3) constituted a source of potential conflict with the Constitution, the latter always took precedence in practice.

58. The CHAIRMAN said he took it from the reply that article 12 of the Constitution prevailed over article 239 (3) of the new Code of Criminal Procedure, regardless of any conflict that might arise between them.

59. Mr. RAMÍREZ (Paraguay) added that the provision under discussion was used only when there was sufficient evidence that a suspect had participated in a criminal act and if it seemed certain that pre-trial detention was in order. In such cases, the law stipulated that a judge must be informed within six hours.

60. Mr. CAMARA (Assistant Country Rapporteur) said he too was satisfied with the thoroughness and frankness of the delegation's replies. He would still like clarification on two points. Firstly, in connection with article 12 of the Convention, the report stated that the Public Prosecutor instituted proceedings when torture was deemed to have occurred. Was the Public Prosecutor obliged automatically to intervene, or was intervention left to a judge to decide?

61. Secondly, did the law specifically exclude the possibility of using evidence obtained by torture, or were such decisions based on jurisprudence?

62. Mr. RAMÍREZ (Paraguay), replying to the first question put by Mr. Camara, said that if an alleged offence was brought to the Public Prosecutor's knowledge - for example by the press - before the victim had lodged a complaint, a judicial investigation must be launched immediately. Moreover, if a person engaged in trial proceedings claimed to have been tortured, the matter must be immediately referred to the Public Prosecutor. In answer to Mr. Camara's second question, he confirmed that evidence obtained by torture was categorically excluded by law.

63. Ms. CASATI (Paraguay) said that articles 88 and 174 of the new Code of Criminal Procedure defined those methods of obtaining evidence that were prohibited, and also the cases in which proof was excluded. The Constitution itself stated that no one undergoing a criminal trial could be convicted on proof obtained in violation of legal norms. Any sentence which proved to have resulted from such a procedure became null and void.

The public part of the meeting rose at 4.45 p.m.



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COMMITTEE AGAINST TORTURE

Twenty-fourth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 422nd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 9 May 2000, at 10 a.m.

Chairman: Mr. BURNS

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 19 OF THE CONVENTION (continued)

Initial report of El Salvador

ORGANIZATIONAL AND OTHER MATTERS (continued)

ACTION BY THE GENERAL ASSEMBLY AT ITS FIFTY-FOURTH SESSION

* The summary record of the second part (closed) of the meeting appears as document
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GE.00-42066 (E)

The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 19 OF THE CONVENTION (agenda item 7) (continued)

Initial report of El Salvador (CAT/C/37/Add.4)

1. At the invitation of the Chairman, Mr. Lagos Pizzati, Mr. Mejia Trabanino and Mr. Castro Grande (El Salvador) took places at the Committee table.
2. The CHAIRMAN welcomed the members of the Salvadoran delegation and invited them to present the initial report of El Salvador (CAT/C/37/Add.4).
3. Mr. LAGOS PIZZATI (El Salvador) welcomed the chance to engage in dialogue with the Committee regarding the implementation of the Convention in his country; to that end, he was accompanied by a human rights specialist from the Ministry of Foreign Affairs to whom he would be yielding the floor. The Government of El Salvador placed great hopes in the joint consideration about to begin and would take particular note of the comments and recommendations of the Committee.
4. Mr. MEJIA TRABANINO (El Salvador) recalled that his country had ratified the Convention against Torture in 1994, barely two years after the signing of the Peace Agreements which had brought to an end 12 years of bloody conflict. The current report (CAT/C/37/Add.4) was a part of the process begun with the signing of those agreements, which had been the starting point on the road to democracy and the implementation of human rights in El Salvador.
5. Respect for and protection of human rights had taken on an entirely new meaning in El Salvador since the end of the armed conflict, during which, it must be recognized, fundamental rights had suffered. There had been persons detained for warlike acts who, after their release, had claimed to have been tortured during their detention; but it should be underlined that Mr. Pastor Ridruejo, the Special Representative of the United Nations Commission on Human Rights, had himself stated that in El Salvador there had been no institutionalized and generalized policy of torture, and that the cases reported did not indicate systematic practices. Moreover, the Government and the guerrilla forces had, in July 1990, signed the San José Agreement on Human Rights which included various arrangements regarding respect and guarantees for those rights, and whose implementation was subject to international monitoring by the United Nations; that agreement expressly provided that nobody should be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Moreover, since the signing of the Peace Agreements in 1992, new legal and political institutions and new legislation had been brought in, strengthening protection of human rights in the country.
6. The report under consideration had been drawn up by a multidisciplinary team from the Ministry of Foreign Affairs, which had consulted no less than a dozen national institutions in order to clarify the aims and objectives of the report, to carry out coordinated work, and to link the provisions of the Convention to the realities of the national situation, while pointing out the problems or difficulties which its implementation could involve. Moreover, the Office of the United Nations High Commissioner for Human Rights had been giving its support under a

technical cooperation project since 1997. Within the framework of that project, a seminar on the preparation and presentation of reports due under the Convention against Torture had been held in August 1998; a dozen institutions had taken part, including two non-governmental organizations, and the main speaker had been a former member of the Committee, Mr. Gil Lavedra.

7. El Salvador was a party to the major international human rights instruments within the framework both of the United Nations and of the Organization of American States, and the implementation of those instruments was obligatory on its territory. At the regional level, El Salvador was notably party to the Inter-American Convention to Prevent and Punish Torture and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women. Torture was prohibited by the Constitution and, although that term was not defined in it, articles 2, 11, 12 and 27 of the Constitution established the right of every individual to life and to physical, psychological and moral integrity. Moreover, article 297 of the Penal Code in force since 1998 classified torture as an offence and particularly penalized agents of the State who committed acts of torture in the exercise of their duties. Articles 5 and 10 of the 1998 Prisons Act introduced for the first time the concept of prisoners' rights. Finally, the National Civil Police Organization Act of 1992 established that no member of the police service could inflict, incite or tolerate an act of torture.

8. The report under consideration presented data gathered by the Office of the Procurator for the Protection of Human Rights (PDDH) regarding violations of physical integrity, which showed that the incidence of such acts was quite low. Complaints were mainly of ill-treatment, with excessive use of force coming second. The data received for 1999 detailed 4 cases of offences against physical integrity, 4 cases of torture, 20 cases of cruel treatment, 825 cases of ill-treatment, 52 cases of excessive use of force and 29 cases of inhuman treatment inflicted on detained persons. Between 1 January and 31 March 2000, according to indications provided by the Office of the Procurator, there had been 2 offences against physical integrity, 2 cases of torture, 1 case of cruel treatment, 175 cases of ill-treatment, 12 cases of excessive use of force and 3 cases of inhuman treatment of detained persons.

9. Education on human rights, which specifically included the norms of international law and other fundamental principles of human rights protection and promotion, was thenceforth to be a part of the training programmes for members of the National Civil Police, the National Public Security Academy and the armed forces. The staff of prisons and of the Institute for the Protection of Minors also received human rights training. For that, El Salvador was receiving help from the Office of the United Nations High Commissioner for Human Rights under the aforementioned cooperation project, in virtue of which 510 police officers, 34 members of the National Public Security Academy, 142 officers from the armed forces and 1,166 prison warders had taken courses on human rights.

10. In conclusion, he underlined that, although the human rights situation in El Salvador had undeniably improved, there were still various problems which the authorities would be trying to resolve.

11. Mr. GONZALEZ POBLETE (Country Rapporteur) was pleased to see a new State enter into dialogue with the Committee, though he noted that the initial report had been submitted

somewhat late. Overall, the report had been drawn up in conformity with the Committee's guidelines on the form and content of initial reports. As the representative of El Salvador had just indicated, the State party had ratified the major international instruments on the protection of human rights, at both the international and the regional level. It would be noted in particular (paragraph 33 of the report, CAT/C/37/Add.4) that El Salvador had in 1994 ratified the Inter-American Convention to Prevent and Punish Torture, and that it had also ratified the Optional Protocol to the International Covenant on Civil and Political Rights and recognized the competence of the Inter-American Court on Human Rights to consider complaints from individuals. As, however, El Salvador had not made the declaration under article 22 of the Convention against Torture, the Committee was divested of the competence enjoyed for their part by the Human Rights Committee and the Inter-American Court on Human Rights. That omission was all the more inexplicable in that both the Covenant and the American Convention on Human Rights prohibited torture; those instruments imposed on States parties obligations very similar to those pursuant to the Convention against Torture, and both the Inter-American Court and the Inter-American Commission on Human Rights were competent to examine complaints from individuals. It would therefore be logical for the Salvadoran authorities to consider recognizing the competence of the Committee under article 22 of the Convention, in order to continue the constructive dialogue which had just begun.

12. By virtue of article 144 of the Constitution, treaties concluded by El Salvador were laws of the Republic and took precedence over domestic law. However, the Constitution did not include any express prohibition of torture, even though its article 2 guaranteed the physical and moral integrity of the person and its article 11 established the primacy of the remedy of habeas corpus in cases of offences against the physical or moral integrity of persons held in detention. The only reference in the Constitution which came close to the concept of torture was that of cruel physical treatment ("*tormento*"), in article 27, which did not cover all the elements contained in the definition of torture given in article 1 of the Convention. Article 297 of the new Penal Code did classify torture as an offence, but without specifying what constituted torture. It simply stated that any public official or employee who, in the performance of his functions, inflicted physical or mental torture, or who did not oppose its infliction, was liable to between three and six years' imprisonment. Article 1 of the Penal Code required that the penal law should describe in a precise and unequivocal fashion the action or omission which constituted an offence, but article 297 of the Penal Code did not specify which concrete acts constituted torture. Nor had he found elsewhere in the Code anything enabling him to interpret article 297 satisfactorily and to determine exactly what was understood there by torture. It was true that the new Penal Code had been promulgated in 1998, after the ratification by El Salvador of the Convention against Torture and of the Inter-American Convention, so it could be assumed that the concept of torture envisaged in article 297 was that defined by those Conventions. Nevertheless, it was for the judges to interpret the article definitively, and it appeared that very often sentences were handed down applying other provisions of the Penal Code relative to conduct considered applicable to the situation, but taking no account of the purposes for which the acts had been committed, which was an essential element of the definition given in the Convention. Usually those were acts such as assault and battery (article 142 and following of the Penal Code), coercion (article 143), threats (article 154) and rape (article 158). With the exception of serious assault and battery (article 144 of the Penal Code) and rape, all those acts to which judges referred in practice were punishable by sentences less severe than the three to

six years' imprisonment prescribed for acts of torture. Moreover, the classifications other than torture which judges were tempted to apply were not subject to imprescriptibility of penalty and prosecution, whereas that was provided for in article 99 of the Penal Code to ensure that torturers could not enjoy impunity. It was true that if there was a conflict between article 297 of the Code and the Convention, courts would have to rule in favour of the latter; but what about the potential conflict of interpretation that judges could face if called on to pass sentence for acts which could be classed as torture under article 1 of the Convention but not under article 196 of the Penal Code? He was therefore unable to agree with the statement in paragraph 66 of the report that the Penal Code gave effect to the provisions of the Convention; on the contrary, the Code omitted the element which best characterized torture as defined in article 1 of the Convention, namely the motive of the torturer.

13. With regard to the implementation of article 2.1 of the Convention, the constitutional reforms which had resulted from the Peace Agreements considerably strengthened the rules on protection of human rights applied in El Salvador. In that respect, the San José Agreement on Human Rights, mentioned in paragraph 62 of the report and cited by the delegation, was particularly important. The new Penal Code and Code of Criminal Procedure, and the Prisons Act, all promulgated in 1998, and the National Civil Police Organization Act of 1992, had strengthened the essential guarantees provided to individuals. Another positive element was the creation of the Office of the Procurator for the Protection of Human Rights, under a law promulgated in 1992, and the speed with which that institution had become operational.

14. Article 29 of the Constitution, on states of exception, authorized the suspension of certain rights - e.g. freedom of expression, of association and of assembly, inviolability of correspondence - but did not permit the suspension of the right to physical and moral integrity, the right not to admit guilt and the remedy of habeas corpus. In that respect, the Salvadoran legal system was fully in conformity with the requirements of article 2.2 of the Convention.

15. The situation was also satisfactory with regard to the implementation of article 2.3. Salvadoran legislation apparently included no provision exempting a torturer from criminal responsibility on the grounds that he had acted on the orders of a superior. On the contrary, articles 32 and following of the Penal Code seemed to involve the responsibility of both the person who had given the order and the one who had carried it out. For its part, article 25 of the National Civil Police Organization Act expressly provided that no member of the police corps could invoke an order from a superior to justify the use of torture or other cruel treatment.

16. With regard to the implementation of article 3 of the Convention, the State party cited in paragraphs 111 to 135 of its report various provisions of the Constitution and the legislation on migration, but none of them referred to the prohibition on deporting, returning or extraditing a person to another State where there were substantial grounds for believing that he would be in danger of being subjected to torture, as set out in article 3 of the Convention. The report stated, in paragraph 115, that it was the responsibility of the Ministry of the Interior to decide whether the person concerned should be extradited, deported or returned, if the person had participated directly or indirectly in El Salvador's internal politics. However, the report did not clearly establish the procedure for deportation or return if the individual concerned had not participated in the internal politics of the country. Moreover, according to paragraph 122 of the report, the

Ministry of the Interior could also authorize the deportation of any foreigner who had "unlawfully" entered the territory, which was precisely the situation of the majority of persons at risk of being sent back to their country of origin.

17. It appeared, according to paragraph 116 of the report, that the decision on deportation or return of a foreigner was taken at the end of "administrative proceedings" which guaranteed the individual concerned impartiality, the right to a hearing and access to all remedies provided for by the law. Moreover, substantial reasons for believing that the individual concerned risked being subjected to torture could be grounds sufficient for considering that the alien was in "imminent danger", in which case, according to paragraph 123, he could be granted permanent residence or even Salvadoran nationality by naturalization. Furthermore, paragraph 125 of the report stated that it was the responsibility of the Supreme Court of Justice to render an opinion on the legitimacy of an application for extradition. Since the Convention was incorporated into national legislation, the individual concerned could invoke article 3 of the Convention before the Supreme Court. Finally, if the Office of the Director-General for Migration did indeed meet the requirements of the "international instruments ratified by the State of El Salvador" as stated in paragraph 124 of the report, it followed that that body should examine the allegations of the individual concerned on the basis of article 3 of the Convention.

18. With regard to the implementation of article 4 of the Convention, he noted that the classification of torture as an offence, given in article 297 of the Penal Code, did not correspond to the definition in article 1 of the Convention. According to article 297, the author of the crime was any public official or employee, and paragraph 136 mentioned article 139 of the Penal Code, which defined the entire range of agents of the State thus covered. If the author of the offence committed an act of torture at the instigation of an agent of the State, or with his express or tacit consent, the agent of the State became an "indirect author" and his nature as a public official was transmitted to the direct author, entailing the same criminal responsibility for both parties.

19. Paragraphs 137 and 138 of the report mentioned respectively articles 320 and 153 of the Penal Code, dealing with arbitrary acts and coercion to commit an offence. Owing to the inadequacy of its classification, torture could thus be dealt with under the head of arbitrary acts and coercion, the corollary of which would be sentences less severe than those provided for in article 297 of the Penal Code, and the non-application of the principle of imprescriptibility. It would be desirable that the amendments to the Penal Code mentioned in paragraph 139 should deal not only with the offence of torture in time of armed conflict, but also the classification of the offence of torture, to ensure that its definition corresponded to that in article 1 of the Convention.

20. Paragraph 143 of the report stated that "the most significant investigations into offences against the physical integrity of victims of the security forces have agreed with the results of investigations conducted by the PDDH and have included prosecution of those responsible **to the fullest extent of the system of justice**". Annex 7, referred to in paragraph 147, and the conclusions reached by the Office of the Procurator illustrated clearly the "extent" of the system of justice. Moreover, he had examined more than 100 cases presented by a national NGO, the Legal Defence Centre of the Archbishopric of El Salvador, and in more than half the cases, the offences classified as violations of the right to integrity of the person in fact corresponded to

the offence of torture under article 1 of the Convention. He had been surprised to receive from the Ministry of Public Security a report based on information from the institution concerned and not on the information in the possession of the Office of the Procurator for the Protection of Human Rights, which was the moral conscience of the nation in the field of human rights protection. In his opinion, all those circumstances cast doubt on the accuracy of the statistics showing few cases of torture.

21. Another subject of concern was the reappearance of death squads. Their actions had been frequent during the 12 years of the armed conflict, but they had been directed against political dissidents, whereas currently they were "social cleansing" operations intended to eliminate suspected criminals. Thus, during the period 1996 to 1999, the Legal Defence Centre of the Archbishopric of El Salvador had reported 41 victims of death squads, which was very worrying. Finally, following the Peace Agreements, El Salvador had disbanded the former police services and had created a new police force whose new officers were trained at a newly created academy. However, again worryingly, many reports pointed to the existence of methods similar to those used by the former police services during the armed conflict.

22. Concerning implementation of article 5 of the Convention, he found article 10 of the Penal Code, quoted in paragraph 152 of the report, fully satisfactory, since its provisions established the principle of universality very clearly, providing for the prosecution of the perpetrators of crimes of torture at the international level.

23. It appeared that Salvadoran legislation was in conformity with the provisions of article 6 of the Convention. In that respect, the report detailed the guarantees which accompanied any detention: a mandatory written arrest warrant, a maximum duration of 72 hours for administrative detention, appearance before a competent judge during that period, detention for the purposes of the investigation, again for a maximum period of 72 hours, by the end of which the competent court must order either release or remand in custody. It was of course not necessary to produce a written arrest warrant in cases of flagrante delicto, but the arrested individual must be immediately handed over to the competent authority. It appeared that the only authority competent to issue a written arrest warrant was the Department of Public Prosecutions. He would like clarification on that subject.

24. With regard to implementation of article 7 of the Convention, it would appear that the Salvadoran Constitution did not provide for the extradition of nationals, but that that issue was dealt with in article 9, paragraph 3, of the Penal Code, which stipulated that Salvadoran criminal law was applicable to offences committed abroad by Salvadorans, if extradition had been refused on the grounds of nationality, which appeared to be in conformity with the provisions of article 7.

25. With regard to the implementation of article 8 of the Convention, paragraph 168 of the report cited various extradition agreements ratified by El Salvador. All the treaties ratified prior to the entry into force of the Convention had been concluded with States currently parties to the Convention. Thus, even if those States did not have laws concerning the offence of torture, El Salvador would be obliged to grant extradition in compliance with article 8.1 of the Convention. Subsequent to the entry into force of the Convention, two further extradition

treaties had been signed, one with the Kingdom of Spain and the other with the United Mexican States, both of which were in conformity with the provisions of article 8 of the Convention. The report also cited the general provisions giving effect to those commitments.

26. Mr. SILVA HENRIQUES GASPAR (Alternate Country Rapporteur) had a few remarks to make regarding implementation of articles 10 to 16 of the Convention. On article 10, he noted that the State party had devoted enormous efforts to the training of law enforcement personnel; since those training efforts were very recent, it was too early for a full assessment. Nevertheless, it would be interesting to know how the Salvadoran authorities proposed to evaluate the results obtained in that area, and what measures they intended taking to ensure effective follow-up of the activities carried out in the police forces and with prison staff. In paragraphs 213 to 215 of the report, the creation of courts for prison supervision and the enforcement of sentences was referred to. He would like fuller information on the powers of those courts, and particularly whether or not they were competent to consider complaints lodged by detainees. Were they able to propose disciplinary measures or was their task simply to communicate the results of their investigations to the Department of Public Prosecutions? Under article 8 of the National Civil Police Organization Act, quoted in paragraph 222 of the report, the Office of the Inspector-General of the Police appeared to enjoy great independence in the performance of its functions. It would be interesting to know how long that body had been in existence and what the extent of the powers of investigation of the Inspectors-General was. Were there any statistical data on their activities, and were they mandated to make unannounced visits to police stations? If so, had such visits already taken place? The mechanisms in place seemed in theory to fulfil the requirements of articles 12 and 13 of the Convention, since they enabled an inquiry to be undertaken either ex officio or on the basis of a complaint, wherever there were reasonable grounds to believe that a person had been the victim of ill-treatment. Nevertheless, the effectiveness of such mechanisms could only be evaluated in terms of the concrete results obtained. He would therefore like to have information on the follow-up to complaints lodged and to know whether any criminal or disciplinary punishments had yet been handed out. If the delegation was unable to provide such information immediately, it could be sent to the Committee later in writing.

27. With regard to article 14 of the Convention, he was glad to see that the Department of Public Prosecutions could request that compensation be granted to victims of torture; but what exactly happened in practice? The wish to ensure the effectiveness of inquiries into cases of ill-treatment as defined in article 16 of the Convention seemed to be backed by an appropriate institutional mechanism. Nevertheless, the cases reported in paragraph 287 were insignificant in number. What comments could the delegation make on that subject? Were the interested individuals adequately informed about their right to lodge complaints and about the competence of the bodies concerned?

28. Mr. RASMUSSEN said that medical examinations played a very important role in the prevention of torture. He would like to know whether every person detained in a police station had the right to be examined by a doctor during his detention and before his transfer to prison. If so, how was the doctor's report brought to the attention of the competent authorities? Secondly, the problem of overcrowding in prisons in El Salvador was well known. Paragraph 163 (e) of the report mentioned measures to replace pre-trial detention. He would like to know if there

were any statistics on the implementation of such measures. Paragraph 236 of the report contained information on changes in the prison population between 1995 and 1997. In most cases, the number of detainees had dropped, except at Ilobasco where it had gone up from 81 in 1995 to 244 in 1997. It would be interesting to know the capacity of the various detention centres.

29. According to information received by the Committee and transmitted to the State party, there was a contradiction between statements made by the Office of the Procurator for the Protection of Human Rights and by the Salvadoran authorities with regard to violence in prisons. Did prison authorities keep a register of the various incidents and of cases where it had been necessary to use force to control the behaviour of prisoners?

30. Ms. GAER noted that, since the Peace Agreements, the police forces had been subject to far-reaching reorganization. Major changes had been made to their powers. The information provided in paragraphs 51, 85 and 86 of the report indicated that, according to the Office of the Procurator for the Protection of Human Rights, acts of torture usually involved auxiliary law enforcement agencies, namely local police forces and warders in detention and rehabilitation centres. The report did not indicate clearly what was their link with the National Civil Police. She would be grateful to the delegation for clarification on that subject. Paragraph 97 of the report stated that the National Civil Police had an Inspector-General whose mandate was to supervise police conduct. Paragraphs 100 and following contained information on the role of other institutions, including the Ministry of the Interior, the Ministry of Justice and the Ministry of Defence, in the prevention of torture. She would welcome fuller information on the respective tasks of those institutions in that regard and a comparison of their tasks with those of the National Civil Police. Did the military police also retain certain competencies in that area? One other issue which required clarification was that of the restructuring of the police forces. How were members of the police currently recruited, and what had become of former police officers relieved of their duties?

31. With regard to article 3 of the Convention, paragraph 119 of the report mentioned many cases of trafficking in human beings. Among the victims of that practice were Chinese, Egyptians, Senegalese, Equadorians and persons from Central America. She would appreciate particulars regarding the sex and ages of the individuals concerned. Had the Salvadoran authorities provided for any rehabilitation measures to help those persons? The report further indicated that the persons concerned were immediately deported; it would be useful to have details of what happened to them subsequent to their deportation.

32. Paragraphs 145 and 146 of the report noted with some candour that victims of torture hesitated to lodge complaints officially with the competent institutions. What measures were taken to facilitate the task of detainees who wished to complain about ill-treatment? Were they fully informed of their rights and did they have the assurance that they would not be subject to reprisals if they lodged a complaint? It would also be useful to know whether there was any monitoring of sexual violence in prisons, and if anybody had yet been punished for such practices. Finally, in the information provided and training given to agents of the State, was emphasis laid on raising awareness of gender-specific acts of torture?

33. The CHAIRMAN thanked the delegation for their comprehensive replies to the Committee's written questions, and invited them to come back and respond at a later meeting to the questions put orally.

34. The delegation of El Salvador withdrew.

The meeting was suspended at 11.30 a.m. and resumed at 11.45 a.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 5) (continued)

Joint Declaration for the United Nations Day in Support of Victims Of Torture

35. The CHAIRMAN drew attention to the revised draft Joint Declaration for the United Nations Day in Support of Victims of Torture (CAT/C/XXIV/Misc.3) distributed in English only. The changes made were indicated in square brackets.

36. Mr. EL MASRY proposed replacing the word "proper", in square brackets in paragraph 8, by the word "adequate".

37. It was so decided.

38. Mr. RASMUSSEN noted, on the same paragraph, that within the context of the holding of a day in support for victims of torture, particular emphasis was laid on the principle of reparation. He therefore proposed replacing the word "compensation" in the text by "reparation". That would enable the Committee to harmonize its terminology with that of other bodies participating in the holding of that day.

39. The CHAIRMAN, responding to a request for clarification from Ms. Gaer, said he believed Mr. Rasmussen wished simply to ensure a degree of harmony with the terms used by other interested bodies, and not to establish any distinction between the words "compensation" and "reparation". If there were no objections, he would take it that the Committee supported Mr. Rasmussen's proposal.

40. It was so decided.

41. The CHAIRMAN said that if there were no further comments, he would take it that the members of the Committee also accepted the changes made to paragraphs 6 and 12 of the draft Declaration.

42. It was so decided.

43. Mr. GONZALEZ POBLETE, noting that in the Spanish version of the Convention the term used was "reparación", considered that the same term ought to be used in the Spanish version of the Joint Declaration.

44. Ms. GAER said that in the English version of the Convention the word "compensation" was used twice in article 14, paragraph 1 and once in paragraph 2. She therefore thought that the word ought to be retained in the English version of the Joint Declaration.

45. Mr. CAMARA drew the Committee's attention to the fact that the French version of the Convention used both the term "réparation" and the term "indemnisation" (compensation).

46. The CHAIRMAN pointed out that the matter at issue was a joint declaration, aimed at best serving the interests of the victims. He suggested that the English version of paragraph 8 should read: "Urge all States to provide for fair and adequate reparation, including compensation and rehabilitation".

47. The draft Joint Declaration, thus orally modified, was adopted.

ACTION BY THE GENERAL ASSEMBLY AT ITS FIFTY-FOURTH SESSION
(agenda item 10)

48. Mr. BRUNI (Secretary of the Committee) informed members that item 10 remained on the agenda of the Committee against Torture since it presented an annual report each year to the General Assembly. However, given the reorganization of the work of the Third Committee, annual reports would thenceforth be considered every two years. The only document brought to the attention of the Committee under that agenda item for the current year was resolution A/RES/54/156 entitled "Torture and other cruel, inhuman or degrading treatment or punishment", adopted in December 1999 without a vote, as a "joint" resolution dealing with all issues related to torture. The text had no new elements relative to resolutions adopted in previous years.

The first part (public) of the meeting rose at 12.15 p.m.